

ILLINOIS POLLUTION CONTROL BOARD
November 7, 2019

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 20-8
) (Enforcement - Land)
WILLIAM MUCCI and DEBRA MUCCI,)
d/b/a B&M PROPERTIES and JOHN KIRBY)
and POLLY KIRBY,)
)
Respondents.)

ORDER OF THE BOARD (by C.M. Santos):

On August 14, 2019, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an 11-count complaint against William Mucci and Debra Mucci d/b/a B&M Properties (Muccis) and John Kirby and Polly Kirby (Kirbys) (collectively, respondents). The complaint concerns property owned by Muccis and possessed under a purchase contract subject to conditions by Kirbys. The property is located adjacent to Illinois Route 71 north and south of N 2725 Road in Ottawa, LaSalle County.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2018); 35 Ill. Adm. Code 103.

In Counts 1-8, the People allege that all respondents violated Sections 21(a), 21(d)(1), 21(d)(2), 21(e), 21(p)(1), 21(p)(3), 21(p)(7), 55(a)(1), and 55(k)(1) of the Act (415 ILCS 5/21(a), 21(d)(1), 21(d)(2), 21(e), 21(p)(1), 21(p)(3), 21(p)(7), 55(a)(1), 55(k)(1) (2018)) and Section 812.101 of the Board's waste disposal regulations (35 Ill. Adm. Code 812.101) by causing or allowing the open dumping of waste resulting in litter, open burning, and deposition of general and demolition debris; causing or allowing the open dumping of waste tires; causing or allowing water to accumulate in waste tires; storing, disposing, and abandoning waste at a site not permitted for storage or disposal of waste; conducting waste storage, treatment, and disposal without a permit; and developing and operating a waste storage and waste disposal facility without a development permit.

In Counts 9-11, the People also allege that the Kirbys violated Section 9(a), 9(c), and 55(a)(2) of the Act (415 ILCS 5/9(a), 9(c), 55(a)(2) (2018)) by causing, threatening, or allowing air pollution; the open burning of refuse; and the burning of waste tires.

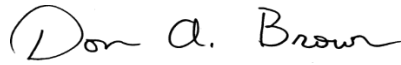
On October 28, 2019, the People and Muccis filed a stipulation and proposed settlement (Stip.), accompanied by a motion to request relief from the hearing requirement of Section

31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Muccis do not affirmatively admit the alleged violations and agree to pay a civil penalty of \$6,000. The proposed settlement states that the alleged violations against Kirby “are not covered by this Stipulation and Proposal for Settlement and remain the subject of an ongoing enforcement action before the Board.” Stip. at 2.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 7, 2019, by a vote of 4-0.



Don A. Brown
Don A. Brown, Clerk
Illinois Pollution Control Board